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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Al Mezan Centre for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Through IHL and IHRL: Lifting the Closure and Securing Accountability

The Al Mezan Centre for Human Rights (Al Mezan) presents this statement in the absence of effective justice, denial of redress, and lack of appropriate reconstruction for the Palestinian population of the Gaza Strip from Israel's July-August 2014 full-scale military assault on Gaza. Al Mezan calls for support for the collective measures currently underway to secure accountability and access to justice for the Palestinian victims of Israeli mechanisms of occupation and closure/blockade. The groundwork for justice requires the complete and unconditioned lifting of Israel's closure of the Gaza Strip that results in the infringement of basic and inalienable rights of the Palestinian people and maintains a wholly unsustainable situation amounting to a protracted humanitarian crisis. Further, justice and reparations are essential for the tens of thousands of civilian victims of the closure/blockade of the last eight years.

Military offensive

On 7 July 2014, Israel launched a full-scale military offensive it codenamed 'Operation Protective Edge' (OPE). The 51-day offensive was comprised of an intense campaign of military attacks by land, air, and sea against the Gaza Strip. The offensive resulted in the killing of 2,217 people in Gaza by Israeli forces, including 293 women, 42 people with disability, and 556 children.[1]

Four-year-old Seba from Tal Al Sultan, Rafah was one of the many children killed at home, asleep in bed. She was described as a calm and very intelligent child. She was said to also be stubborn sometimes. Seba liked ice cream, and a few days before her death she told her father that she had had a dream that the war was over and she was eating ice cream with her friends. She was anxious and excited to start kindergarten in the autumn. On 21 August 2014, the neighboring house to Seba's was bombarded by several Israeli missiles. Seba and her sister were sleeping in a nearby room. Seba's father said that concrete blocks and columns covered her little body. She was seriously injured and was taken to the hospital. She died after a while. Of the total fatalities, 1,066 people were killed in their homes; 370 of those killed were children like Seba.

Israeli forces either partially or fully destroyed at least 31,974 housing structures, many of which hosted multiple housing units. Israeli forces destroyed and damaged civilian and public infrastructure en masse, including medical, sanitation, education, and electricity facilities. The destruction continues to compound the longstanding violations from the closure/blockade, including on the right to health, right to adequate housing, and right to an adequate standard of living.

Closure

Additionally, from 1 September 2014 until 25 May 2015, Al Mezan documented over 129 incidents of torture and cruel, inhuman and degrading treatment (CIDT) by Israeli forces and authorities of Palestinians in Gaza seeking medical care in Israel or the West Bank, in Israeli prisons, and of fishermen. The incidents of torture and CIDT were carried out as an extension of the policy of closure, where arrests of people in or near the Israeli-controlled buffer zone, of fishermen, and of patients, continue to increase in number. In the same timeframe, one farmer and one fisherman were shot and killed by Israeli forces, while dozens more were injured in their fields and fishing boats.

At present, the Gaza population remains systematically denied basic services and needs including goods, food, medicine, infrastructure, and access to education and healthcare. These restrictions affect the life and wellbeing of the whole population while placing vulnerable populations, such as children, women, older people, and people with disability, at a higher risk of infringement. As reported by the International Committee for the Red Cross (ICRC) in 2010, such restrictions, inflicted on an indiscriminate number of persons, amount to a form of collective punishment of a civilian population in violation of the absolute prohibition included in Article 33 of the Fourth Geneva Convention (IVGC).

The temporary ceasefire agreement that became active on 26 August 2014 included provisions of renewed terms for Israel's closure/blockade of the Gaza Strip. At present, Israel has not implemented measures to meaningfully ease restrictions or improve the humanitarian crisis.

Reconstruction

The Gaza Reconstruction Mechanism (GRM) is inefficiently slow against massive destruction and has not resulted in appropriate rebuilding. The GRM further institutionalizes the closure/blockade by operating under the Israeli instituted mechanisms of control. The GRM lacks necessary components of accountability and oversight and inappropriately benefits the Israeli economy. According to Oxfam International, at the current rate of reconstruction and without lifting the closure/blockade, it could take more than 100 years to rebuild Gaza's "housing, education, and health infrastructure".[2]

Accountability

The link between the closure policy and Israel's lack of accountability is evident in the Israeli government's denial of Palestinian victims' physical access to Israeli courts, which results in the dismissal of their cases. The evidence from Al Mezan's continued engagement with Israel's investigatory mechanisms demonstrates that as the institutions stand, the mechanisms do not function to hold political leaders and military commanders to account and do not comply with international standards of the duty to investigate.

Al Mezan is currently pursuing 89 serious requests for criminal investigations into the actions of Israeli forces during the bombardment with Israel's Military Advocate General. To date, two cases have been closed without any preliminary investigation and five cases have been opened for preliminary investigation; four of these investigations are being conducted into theft by Israeli soldiers. Al Mezan also submitted notifications of intention to file civil compensation cases to the Ministry of Defence on behalf of 287 victims in serious attacks by Israeli forces during OPE; however, Al Mezan has not yet received a response from the Ministry.

Self-determination

A previous petition to Israel's Supreme Court to end the blanket ban on student travel from Gaza to the West Bank was dismissed by the Court despite the failure of the State to provide any evidence that the movement of students poses security risks. The ban, in violation of Article 13 of ICESCR, has remained in effect since 2000. Hindering the normal functioning of the Palestinian education system, the ban hampers development without any lawful justification. The Israeli government informed the Court that the ban was motivated by pursuing a policy of separation between Gaza and the West Bank, and not by specific security concerns. One of the female students is an example of this policy at work: she had previously been granted a permit to access the West Bank for a work conference and had therefore passed a security check deeming her not a threat to Israel; however, when she applied for permission to access a Palestinian university in the West Bank, her permit was explicitly denied.

The closure policy must be seen in the context of Israel's efforts to prevent Palestinian self-determination, fragment the occupied Palestinian territory, and annex land. The closure policy is not a security measure, but rather a political measure to serve Israeli strategic aims.

We are therefore urging the Honorable Council to consider two matters of primary concern:

- The illegal occupation and closure of the Gaza Strip is preventing the population from rebuilding, healing, and breaking out of the protracted effects of Israel's most recent bombardment. The closure policy also hinders the already obstructed avenues towards justice. Accountability initiatives must therefore be taken in conjunction with swift measures to enable the Palestinian population of Gaza to achieve an adequate standard of living.
- The initiatives currently underway to secure justice and accountability internationally, both through the imminent publishing of the Commission of Inquiry's report and through the International Criminal Court, have

been repeatedly undermined, obstructed, and delayed. The actions therefore require the full support and backing of the Honorable Council and the international community in line with UN principles of justice and international law.

Al Mezan remains aware of the political forces that continue to dictate Palestinian access to justice and Israeli accountability. Israel's infallible system of impunity maintains through a lack of political will to establish effective mechanisms. This reality has encouraged the endurance of Israel's occupation and allows Israel to disregard the legal and moral obligations emanating from forced occupation on the population of the occupied Palestinian territory. Al Mezan therefore urges the Honorable Council to ensure that the framework through which a just and durable solution for Palestinians is formulated is in line with and governed by the UN agreed principles of human rights and international humanitarian law.

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[1] Database of four Palestinian human rights organizations conducting monitoring: Al Mezan Centre for Human Rights, Palestinian Center for Human Rights, Al Haq Law in the Service of Man, and Al Dameer Association for Human Rights

[2] Oxfam International. Vital Building in Conflict Damaged Gaza to Take More than a Century at Current Rate. N.p., 26 Feb. 2015. Web. https://www.oxfam.org/en/pressroom/pressreleases/2015-02-26/vital-building-conflict-damaged-gaza-take-more-century-current